

Message Text

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FM AMEMBASSY MOSCOW
TO SECSTATE WASHDC 9496
INFO AMEMBASSY BELGRADE
AMEMBASSY BERLIN
AMEMBASSY BONN
AMEMBASSY BUCHAREST
AMEMBASSY BUDAPEST
AMCONSUL LENINGRAD
AMCONSUL MUNICH
AMEMBASSY OTTAWA
AMEMBASSY PARIS
AMEMBASSY PRAGUE
AMEMBASSY SOFIA
AMEMBASSY TEL AVIV
AMEMBASSY TRIPOLI
USMISSION USUN NEW YORK
USMISSION USNATO

C O N F I D E N T I A L SECTION 01 OF 02 MOSCOW 05579

E.O. 11652: XGDS-4
TAGS: PINT, PINS, SHUM, UR
SUBJECT: SHCHARANSKIY: TO TRY OR NOT TO TRY AND WHY

SUMMARY: SOME MOSCOW DISSIDENTS ARE SPECULATING THAT
SHCHARANSKIY MAY BE EXPELLED FROM THE SOVIET UNION WITHOUT
A TRIAL. WESTERN ANALYSTS IN MOSCOW GENERALLY DISAGREE,
BUT THERE ARE ARGUMENTS ON BOTH SIDES. ON BALANCE, THE
EMBASSY THINKS SOVIET LEADERSHIP HAS OPTED FOR A TRIAL
LEAVING OPEN THE POSSIBILITY OF IMPRISONING OR EXPELLING
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HIM (PERHAPS AS AN EXCHANGE) AFTER HE IS CONVICTED. END
SUMMARY.

1. DISCUSSION OF SHCHARANSKIY CASE AMONG DISSIDENTS HAS
TAKEN A NEW TURN. FOR FIRST TIME EMBOFF HAS HEARD SPECU-
LATION THAT SHCHARANSKIY MIGHT BE EXPELLED FROM THE SOVIET
UNION WITHOUT A TRIAL. OUR SOURCES HAVE GENERALLY BEEN

RELUCTANT TO DISCUSS POSSIBLE OUTCOMES OF SHCHARANSKIY AFFAIR, BUT AS OVER A YEAR HAS PASSED WITH VERY LITTLE PROGRESS IN THE CASE THEY NOW SEEM WILLING TO SPECULATE ABOUT ALTERNATIVE RESOLUTIONS.

2. DISSIDENT ARGUMENTS SUPPORTING POSSIBILITY OF SHCHARANSKIY EXPULSION WITHOUT A TRIAL ARE THE FOLLOWING:

-- SHCHARANSKIY HAS ALREADY BEEN TRIED AND FOUND GUILTY IN THE COURT OF SOVIET PUBLIC OPINION;

-- EMIGRATION, ESPECIALLY TO ISRAEL, IN THE MIDST OF "SCANDAL" WOULD REINFORCE LOCAL PREJUDICES ABOUT REFUSENIKS AND WOULD CONFIRM IN MOST PEOPLE'S MINDS THE WORST OF WHAT HAS BEEN PUBLISHED ABOUT SHCHARANSKIY, FOREIGN CORRESPONDENTS AND DIPLOMATS IN MOSCOW;

-- EXPELLING SHCHARANSKIY WITHOUT A TRIAL WOULD DEPRIVE DISSIDENT COMMUNITY OF MARTYR AND PREEMPT WESTERN PUBLICITY;

- UNEXPECTED AND SUDDEN EXPULSION OF SHCHARANSKIY WOULD FIT WELL INTO KGB TACTICS OF UNPREDICTABILITY AND DISRUPTION JUST AS DISSIDENTS AND REFUSENIKS ARE SEEMING TO COME TOGETHER OVER THIS ONE CASE;

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-- TAKEN TOGETHER WITH THE FACT THAT SHCHARANSKIY HAS SPENT OVER A YEAR IN JAIL AND HIS REPUTATION HAS BEEN BESMIRCHED, HIS EXPULSION WOULD NOW BE CONSIDERED BY MOST SOVIETS AS SUFFICIENTLY SEVERE PUNISHMENT FOR SERIOUS OFFENSES.

3. MOST WESTERN DIPLOMATS IN MOSCOW THINK IT UNLIKELY THAT SOVIETS WILL RELEASE SHCHARANSKIY IN THE NEAR FUTURE, MUCH LESS WITHOUT A TRIAL. THEY POINT OUT, ACCURATELY, THAT THE ENTIRE THRUST OF SOVIET PROPAGANDA TO DATE HAS BEEN THAT SHCHARANSKIY IS GUILTY OF ESPIONAGE AND THE LAW MUST TAKE ITS COURSE. THE SOVIETS, THIS ARGUMENT GOES ON, WOULD SUFFER LOSS OF FACE AND, TO SOME DEGREE, OF CONTROL OVER THE DISSIDENT MOVEMENT IF THE PROMISES OF THE PRE-TRIAL PUBLICITY ARE NOT CARRIED OUT.

4. IN RESPONSE TO THESE POINTS SOME OF OUR DISSIDENT SOURCES SAY EMPHATICALLY THAT FROM THE SOVIET AUTHORITIES' POINT OF VIEW THERE WOULD BE NO LOSS OF FACE IN EXPELLING A PRE-JUDGED REFUSENIK "TRAITOR" AND FROM THE VIEWPOINT OF THE PEOPLE STILL LIVING UNDER THE SHADOW OF THE KGB THERE HAS NOT BEEN AND WOULD NOT BE ANY LOSS OF THE

AUTHORITIES' CONTROL OF DISSIDENT MOVEMENT IF SHCHARANSKIY
DEPARTED THE COUNTRY UNTRIED.

5. DISSIDENTS ADMIT THAT SOVIET AUTHORITIES COULD JUST AS
WELL TRY SHCHARANSKIY, FIND HIM GUILTY AND JAIL HIM FOR
MANY YEARS AS RELEASE HIM TOMORROW. THE AUTHORITIES ARE
IN COMPLETE CONTROL OF THE SITUATION, AND THEY WILL DO WHAT
THEY FIND POLITICALLY MOST EXPEDIENT. UNDER CURRENT
CIRCUMSTANCES, OUR DISSIDENT SOURCES ARGUE, AUTHORITIES
MAY DECIDE IN FAVOR OF EXPULSION.

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6. IN EMBASSY VIEW KEY QUESTION IS HOW SOVIET LEADERSHIP
VIEWS SITUATION. IN OUR OPINION IT IS NOT LIKELY POLIT-
BURO WOULD ACCEPT POSSIBILITY, HOWEVER REMOTE, OF BEING
PERCEIVED BY DOMESTIC OR FOREIGN AUDIENCE AS "WEAK" IN
TOLERATING POLITICAL ACTIVISM OR OF APPEARING TO ALTER, IN

RESPONSE TO OUTSIDE PRESSURE, THE LEGAL PROCESS SET IN MOTION AGAINST AN ACCUSED DISSIDENT. THE PRE-TRIAL PERIOD HAS DRAGGED ON TOO LONG TO AVOID COMPLETELY THE IMPRESSION THAT POLITICAL CONSIDERATIONS ARE AFFECTING LEGAL PROCESS, CONFIDENTIAL

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BUT SOVIET LEADERSHIP WILL AVOID ANY DECISION ON SHCHARANSKIY WHICH IN THEIR VIEW MIGHT BE INTERPRETED AS "GIVING IN" TO THE VERY "PRESSURE" THEY SO VEHEMENTLY REJECTED AT BELGRADE.

7. EVEN THOUGH IT CAN BE ARGUED THE SHCHARANSKIY CASE IS SUI GENERIS AND THAT WESTERN SUPPORT FOR OTHER LESS PROMINENT CASES WOULD NOT AGAIN REACH CURRENT LEVELS, IT IS DOUBTFUL, WE THINK, THAT SOVIET LEADERSHIP WOULD ADOPT VIEW THAT THE SHCHARANSKIYS OF THIS WORLD WILL FADE AWAY. FURTHERMORE, LEADERSHIP MAY BELIEVE IF SHCHARANSKIY IS EXPELLED, WESTERN PRESSURE WILL SIMPLY BE FOCUSED ON SOMEONE ELSE. IF SO, LEADERSHIP MAY BELIEVE IT IS IN ITS INTEREST TO DEMONSTRATE "ONCE AND FOR ALL" THAT IT WILL NOT BE MOVED BY OUTSIDE PRESSURE, RATHER THAN FACE THIS ISSUE ANEW EACH TIME A DISSIDENT IS ARRESTED WHOSE SUPPORTERS ARE ABLE TO MOBILIZE WESTERN OPINION. IN THIS CONNECTION, DECISION TO STRIP GRIGORENKO AND ROSTROPOVICH OF CITIZENSHIP IMMEDIATELY FOLLOWING BELGRADE SESSION SEEMS DESIGNED TO GIVE IMAGE OF REGIME DETERMINATION TO PROCEED AGAINST DISSIDENTS IN MANNER OF ITS CHOOSING, REGARDLESS OF EFFECT ON WESTERN OPINION.

8. ALTHOUGH SOVIET INVESTIGATORY PROCESS FOR SUCH CASES IS TRADITIONALLY EXTENDED AND THE BELGRADE CONFERENCE WAS PROBABLY A MAJOR INHIBITING FACTOR, THE INORDINATE LENGTH OF SHCHARANSKIY'S PRETRIAL DETENTION MAY ALSO REFLECT LEADERSHIP INDECISION ON HOW TO PROCEED. IN THIS CONNECTION THE PRETRIAL EXPULSION OPTION MAY BE ONE OF THOSE RECEIVING CONSIDERATION, BUT ON BALANCE IT IS OUR GUESS POLITBURO HAS DECIDED TO TRY SHCHARANSKIY, LEAVING OPEN THE OPTIONS OF IMPRISONMENT OR EXPULSION (PERHAPS AS AN EXCHANGE) AFTER HE IS CONVICTED.

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9. THIS IMPRESSION IS REINFORCED BY REPORT FROM TWO U.S. CITIZENS, FORMER PRESIDENT N.Y. BAR ASSN., ORVILLE SCHELL, AND ATTORNEY JEROME COBEN, WHO WHILE VISITING SOVIET UNION HAD OPPORTUNITY TO MEET WITH PRESIDENT OF MOSCOW COLLEGIUM

OF LAWYERS CONSTANTINE APRAKSIN. APRAKSIN TOLD THEM
SHCHARANSKIY WOULD BE TRIED, "NO QUESTION" ABOUT THAT.
HE REFUSED, HOWEVER, TO BE DRAWN OUT ON EXACT CHARGE.
(FURTHER DETAILS ON SCHELL/COBEN CONVERSATIONS WITH SOVIET
OFFICIALS FOLLOW BY SEPTTEL). TOON

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